

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6002

ROBERT L. GROOMS, JR.,

Petitioner - Appellant,

versus

SUPERINTENDENT, VIRGINIA DEPARTMENT OF
CORRECTIONS,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. James C. Turk, Senior District
Judge. (CA-04-673-7)

Submitted: July 27, 2005

Decided: August 2, 2005

Before KING, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert L. Grooms, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Robert L. Grooms, Jr., seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (2000) without prejudice. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Grooms has not made the requisite showing.

Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Grooms' motion to appoint counsel and motion for leave to proceed in forma pauperis. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED